

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Richard Di Donato, Individually and On Behalf of all Others Similarly Situated,

No. CV-16-00302-PHX-NVW

ORDER

Plaintiff,

V.

Insys Therapeutics, Inc.; et al.,

Defendants.

This matter having recently come before this Court,

IT IS ORDERED that motions pursuant to Fed. R. Civ. P. 12(b)(6) and 12(c) are discouraged if the defect can be cured by filing an amended pleading. Therefore, the parties must meet and confer prior to the filing of such motions to determine whether it can be avoided. Consequently, motions to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) or for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c) must contain a certification of conferral indicating that the parties have conferred to determine whether an amendment could cure a deficient pleading, and have been unable to agree that the pleading is curable by a permissible amendment. In addition, parties shall endeavor not to oppose motions to amend that are filed prior to the Scheduling Conference or within the time set forth in the Rule 16 Case Management Order. Motions to dismiss that do not contain the required certification are subject to be stricken on the Court's motion.

1 **IT IS FURTHER ORDERED** that Plaintiff serve a copy of this Order upon
2 Defendants and file notice of service.

3 | Dated this 3rd day of February, 2016.

Neil V. Wake
Neil V. Wake
United States District Judge